

REMARKS

STATUS SUMMARY

Claims 1, 3, 5-12, 14, 15, 17, and 19-22 are pending in the present application. Applicant has amended claim 5 and cancelled claims 8 and 21, in addition to filing a terminal disclaimer to resolve any non-statutory type double patenting rejections. No inference as to the patentability of claims 8 and 21 can be made other than they were cancelled to expedite the issuance of this application that had already been previously allowed.

35 U.S.C. §112 REJECTIONS

The Examiner rejected claims 1-3, 5-12, 14, 15, 17, and 19-22 under 35 U.S.C. 112, first paragraph, as being based on a disclosure which is not enabling with a feature critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. Specifically, the Examiner stated that the “specification discloses that a separately received frequency reference signal (114), illustrated in Fig. 1, is mixed with a carrier-removed GPS signal and the resultant signal is provided to a comb filter. The specification fails to describe the mixing of the separately received frequency reference signal is merely preferred (Non-final Office Action, Page 2, paragraph 3).” If the mixing is merely preferred as stated by the Examiner, then using the Examiner’s reasoning, the feature is not critical or essential to the practice and the rejection is moot.

The Examiner also stated that the specification “fails to discloses[sic] an embodiment where the separately received frequency reference signal is not used all al[sic] to achieve the objective of the present invention.” This issue has been addressed by amending claim 5 with the

limitations of allowable claim 21. Furthermore, the Examiner also indicated an issue with claim 8. In order to expedite issuance of this application that was already once allowed, Applicant has cancelled claim 8 making the rejection moot.

Therefore, in view of the remarks above and claim amendments and cancellations, claims 1-3, 5-7, 9-12, 14, 15, 17, 19-20, and 22 are in condition for allowance and all the claims that depend from the allowable independent claims are in condition for allowance.

NON-STATUTORY DOUBLE PATENTING REJECTIONS

The Examiner rejected claims 1-3, 5-7, 9, and 22 provisionally on the grounds of non-statutory obviousness-type double patenting as being unpatentable in view of the claims of applications 09/938,387. Applicant has submitted a terminal disclaimer with this non-final office action response in order to address this rejection.

Therefore, the claims as now presented in view of the terminal disclaimer are in condition for allowance.

PROVISIONAL DOUBLE PATENTING REJECTIONS

The Examiner provisionally rejected claims 12, 14, 15, 17, and 19 on the grounds of statutory double patenting as being unpatentable in view of the claims of applications 09/938,387. This is a provisional rejection and until the claims issue in this case or the other case, the fact of double patenting under 35 U.S.C. §102 can not be established. Once one of the applications is allowed, then an actual rejection can be raised against the other application. But,

at this time applicant does not know which case will issue first and if the other case will issue and with what claims.

Applicant does want to inform the Examiner that the 09/938,387 application being examiner by Examiner Phuang M. Phu in art unit 2611, was allowed, but then an RCE was filed in order to have additional references considered (as done in the current application). The RCE and IDS in the 09/938,387 application was filed on April 14, 2008.

Therefore, the provisional rejection is not an issue until the 09/938,387 application issues and if this application is ready for allowance, it should be allowed to issue ahead of a still pending application. Thus, Applicant can not amend the claim to overcome a rejection that is not an actual rejection at this time.

ALLOWABLE SUBJECT MATTER

The Examiner indicated that claims 10, 11, 20 and 21, would be allowable if rewritten in independent form and the 35 U.S.C. §112 rejections were addressed. Applicant thanks the Examiner for such findings. Applicant has addressed the 35 U.S.C. §112 rejections and believes the claims as now presented are in condition for allowance.

Conclusion

In view of the foregoing discussion, Applicant respectfully submits that the claims 1-3, 5-7, 9-12, 14, 15, 17 and 19, 20, and 22 as presented are in a condition for allowance, for which action is earnestly solicited.

Respectfully submitted,

By 

Attorney for Assignee
Gregory B. Gulliver, Reg. 44,138

Phone: (847) 282-3551
Fax: (847) 574-8035

The Eclipse Group
10605 Balboa Blvd., Suite 300
Granada Hills, CA 91344